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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,780	12/10/2003	Michael Wayne Brown	AUS920030335US1	6889

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IBM CORPORATION (VE)
C/O VOLEL EMILE
P. O. BOX 162485
AUSTIN, TX 78716

EXAMINER	
FITZPATRICK, ATIBA O	
ART UNIT	PAPER NUMBER
2624	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/732,780	BROWN ET AL.	
	Examiner	Art Unit	
	ATIBA O. FITZPATRICK	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6,8-10,13,15-17,20,22-24 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 6, 8-10, 13, 15-17, 20, 22-24, and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *05/07/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

The objection to the title has been withdrawn in light of the correction.

Applicant's arguments with respect to claims 1-3, 6, 8-10, 13, 15-17, 20, 22-24, and 27 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 8, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPGPubN 20020101505 (Gutta) in view of USPN 7117157 (Taylor).

As per claim 15, Gutta teaches an apparatus for automatically identifying participants at a conference who exhibit a particular expression during a speech comprising **(Limitations present only within the preamble are not given patentable weight)**:

means for receiving from a user input data which specifies the particular expression during the speech **(Gutta: abstract, Fig. 1: 18; Fig. 2: "video input"; Fig. 3: 305 and 16: Note that the data received from the camera an microphone is captured from participate(s)/user(s) and specifies the expressions of these participant(s)/user(s). Note that the speakers can be users and vice versa: page 6, paras 73-74. Note that an "expression" can be visual (facial expression or gestrue) or oral (acoustic).)**; and

means for identifying whether at least one participant exhibits the particular expression during the speech, said code means for identifying including **(Gutta: abstract; Figs. 1 and 2; pagew 1, paras 8-9)**:

means for analyzing data representing the participants to generate a set of action units (AUs) for each participant wherein each set of AUs for a participant represents an expression exhibited by the participant **(Gutta: Fig. 1: 12 and 300; Fig. 2: 32; Figs. 3-5; paras 8-10; paras 36-71)**;

means for determining whether at least one of the participants exhibits the particular facial expression by processing each set of generated AUs utilizing an automated facial decoding system **(Gutta: Figs. 2-4; paras 8-10; paras 36-71)**; and

means for displaying, in response to determining that one of the participants exhibits the particular facial expression, the at least one participant to the user **(Gutta: page 2, para 17: "videoconferencing"; page 3, paras 27 and 31: presented and displayed to users)**.

Gutta does not teach a means for receiving from a user input data which specifies indicating the particular expression during the speech **[when individual(s) other than the user are speakers]**.

Taylor teaches a means for receiving from a user input data which specifies the particular expression during the speech **[when individual(s) other than the user are speakers] (Taylor: Fig. 3: s12-20: col 5, line 63- col 6, line 34; Fig. 23: s302-320)**.

Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the teachings of Taylor into Gutta since Gutta suggests a system for automatically focusing the camera on the speaker on a videoconference using expressions of the speakers and other participants for making the determination in general and Taylor suggests the beneficial use of a system for automatically focusing the camera on the speaker on a videoconference using expressions of the speakers and other participants for making the determination wherein a user specifies the particular expressions that cue for the camera focus to change to another participant in the analogous art of image processing. It would have been obvious for one of ordinary skill in the art at the time the invention was made to allow the user to specify particular expression cues in an initialization stage in order to allow for flexibility and customization considering that an operator may know how best to customize the system for difference settings and groups/types of participants. Furthermore, one of ordinary skill in the art at the time the invention was made could

have combined the elements as claimed by known methods and, in combination, each component functions the same as it does separately. One of ordinary skill in the art at the time the invention was made would have recognized that the results of the combination would be predictable.

Arguments made in rejecting claims 1, 8, and 22 are analogous to arguments for rejecting claim 15.

Claims 2, 3, 9, 10, 16, 17, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPGPubN 20020101505 (Gutta) in view of USPN 7117157 (Taylor) as applied to claims 1, 8, 15, and 22, respectively, above, and further in view of USPN 6404438 (Hatlelid).

As per claim 16, Gutta in view of Taylor teaches the apparatus of Claim 15 wherein the recorded video and audio data representing the at least one participant is passed through a filter to filter out expressions before the at least one participant is displayed to the user **(Gutta: Figs. 3-5; para 10 34, 40-58)**.

Gutta in view of Taylor does not teach cultural filter to filter out expressions that are characteristic to a culture.

Hatlelid teaches cultural filter to filter out expressions that are characteristic to a culture **(Fig. 7: the phrases in 804 pertain to cultures: col 11, line 13 – col 12, line 67; Also Figs. 3-6)**.

Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the teachings of Hatlelid into Gutta since Gutta suggests a communication environment that assesses users/speakers expressions and uses the determinations to enhance communication in general and Hatlelid suggests the beneficial use of a communication environment that assesses users/speakers expressions and uses the determinations to enhance communication wherein individual and cultural personality filters are used as to "reflect generally the user's own behavior and personality… a user can select from a variety of personality types to represent the user, including `hip-hop,` `upper-class,` `rocker`, or the like" (Hatlelid: col1 , lines 19-52) in the analogous art of image processing. Furthermore, one of ordinary skill in the art at the time the invention was made could have combined the elements as claimed by known methods and, in combination, each component functions the same as it does separately. One of ordinary skill in the art at the time the invention was made would have recognized that the results of the combination would be predictable.

Arguments made in rejecting claims 2, 9, and 23 are analogous to arguments for rejecting claim 16.

As per claim 17, Gutta in view of Taylor and Hatlelid teaches the apparatus of Claim 16 wherein the recorded video and audio data representing the at least one participant is further passed through an individual filter to filter out expressions that are characteristic to the at least one participant before the at least one participant is displayed to the user **(Gutta: Figs. 3-5; para 10 34, 40-58)**.

Hatlelid also teaches the recorded video and audio data representing the at least one participant is further passed through an individual filter to filter out expressions that are characteristic to the at least one participant **(Fig. 7: col 11, line 13 – col 12, line 67; Also Figs. 3-6 and 11-14)**.

Arguments made in rejecting claims 3, 10, and 24 are analogous to arguments for rejecting claim 17.

Claims 6, 13, 20, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPGPubN 20020101505 (Gutta) in view of USPN 7117157 (Taylor) and USPN 6404438 (Hatlelid) as applied to claims 3, 10, 17, and 24, respectively, above, and further in view of USPN 4805205 (Faye).

As per claim 20, Gutta in view of Taylor and Hatlelid teaches the apparatus of Claim 17

wherein at least one participant **[is]** also displayed to the user **(Gutta: See arguments made for claim 16)**.

Gutta in view of Taylor and Hatlelid does not teach wherein a name and location of the at least one participant are also displayed.

Faye teaches a name and location of the at least one participant are also displayed **(Fig. 4: col 20, line 45 – col 21, line 5; abstract)**.

Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the teachings of Faye into Gutta since Gutta suggests a system for holding a teleconference wherein the image of the subject is displayed on-screen in general and Faye suggests the beneficial use of a system for holding a teleconference wherein the image of the subject is displayed on-screen and the location and name of the subject is also displayed in the analogous art of image processing. It would have been obvious for one of ordinary skill in the art at the time the invention was made to present the name and location of the subject on-screen along with the subject's image in order to facilitate more informed communication. That is, the audience would be able to associate the speaker with his/her location for contextual purposes. This would allow the audience to understand/interpret biases or influences inherent in the speaker's origin. Providing the name would be beneficial in terms of back-and-fourth discussion. If a audience member decides to converse with the speaker, he/she can

easily refer to the speaker by name. Furthermore, one of ordinary skill in the art at the time the invention was made could have combined the elements as claimed by known methods and, in combination, each component functions the same as it does separately. One of ordinary skill in the art at the time the invention was made would have recognized that the results of the combination would be predictable.

Arguments made in rejecting claims 6, 13, and 27 are analogous to arguments for rejecting claim 20.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 8, 15, and 22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, 17, and 25 of U.S. Patent No. 20050131697 in view of USPGPubN 20020101505 (Gutta) and USPN 7117157 (Taylor). The scope of both sets of claims from both applications is essentially identical. Where Applicant deems that the scope of the sets of claims from the separate applications differs, Applicant is referred to the secondary references as applied (cited) in the 35 USC 103 rejection section above.

Claims 2, 9, 16, and 23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6, 14, 22, and 30 of U.S. Patent No. 20050131697 in view of USPGPubN 20020101505 (Gutta), USPN 7117157 (Taylor), and USPN 6404438 (Hatlelid). The scope of both sets of claims from both applications is essentially identical. Where Applicant deems that the scope of the sets of claims from the separate applications differs, Applicant is referred to the secondary references as applied (cited) in the 35 USC 103 rejection section above.

Claims 3, 10, 17, and 24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 15, and 23 of U.S. Patent No. 20050131697 in view of USPGPubN 20020101505 (Gutta), USPN 7117157 (Taylor), and USPN 6404438 (Hatlelid). The scope of both sets of claims from both applications is essentially identical. Where Applicant deems that the scope of the sets of claims from

the separate applications differs, Applicant is referred to the secondary references as applied (cited) in the 35 USC 103 rejection section above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Atiba Fitzpatrick whose telephone number is (571) 270-5255. The examiner can normally be reached on M-F 10:00am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached on (571)272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Atiba Fitzpatrick

Patent Examiner

/Samir A. Ahmed/

Supervisory Patent Examiner, Art Unit 2624